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2005 JUN 10 AM 9:16

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T.R.A. DOCKET ROOM

June 9, 2005

Ms. Sharla Dillon
Docket Room Manager
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

Via Hand Delivery


Re: Petition of Tennessee One Call System, Inc.

Dear Ms. Dillon:

I have enclosed for filing an original and thirteen copies of the Petition for Allocation of an N11 Number on behalf of Tennessee One Call System, Inc. along with a check in the amount of \$25 for the filing fee. Also enclosed is an extra copy which I would appreciate your returning to me stamped filed. If there is anything further I need to do, please let me know.

With best regards, I am

Sincerely yours,



C. DEWEY BRANSTETTER, JR.

Enclosure

c: William B. Turner

BKSJ File No: 05-219

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

2005 JUN 10 AM 9:16

IN RE:

PETITION OF TENNESSEE
ONE CALL SYSTEM, INC.
FOR ALLOCATION OF AN
N11 (ABBREVIATED DIALING
CODE)

TRA DOCKET ROOM

TRA Docket No.

05-00161

PETITION FOR ALLOCATION OF AN N11 NUMBER

Tennessee One Call System, Inc. (Tennessee One Call) respectfully submits this Petition for the Allocation of an N11 number (811) for the purpose of providing advanced notice of excavation activities to underground facilities operators in the State of Tennessee.

INTRODUCTION

1. The Petitioner, Tennessee One Call, is a Tennessee not-for-profit corporation established in 1983 and whose mission is to act as an advanced notification service to operators of underground facilities anywhere within the State.
2. The Petitioner was formed pursuant to provisions contained within the Underground Utility Damage Prevention Act, specifically Tennessee Code Annotated § 65-31-107. That code section allows for the formation of a one call service for the purpose of receiving notifications of excavation or demolition operations within the State of Tennessee. Tennessee Code Annotated § 65-31-106 requires that notification of the intent to excavate or demolish be provided at least three working days prior to any actual excavation or demolition, so that operators, or utility owners, will have adequate time to mark the location of their underground facilities.
3. It is the mission of the Petitioner to provide the best possible communication and notification service to prevent damage to underground utilities.

NUMBERING RESOURCE FOR WHICH ALLOCATION IS SOUGHT

4. The Petitioner seeks allocation of the 811 abbreviated dialing code in accordance with the designation by the Federal Communications Commission of 811 as the national abbreviated dialing code to be used by state one call notification systems for providing advanced notice of excavation activities to

underground facility operators, as required by the Pipeline Safety Improvement Act of 2002.

STANDARD FOR GRANT OF PETITION

5. In its *Sixth Report and Order (Sixth R&O)*, which was released on March 14, 2005, the Federal Communications Commission designated 811 as the nationally abbreviated dialing code to be used by state one call notification systems, such as the Petitioner herein, for providing advanced notice of excavation activities to underground facility operators in compliance with the Pipeline Safety Act. The designation of 811 for such use was effective on May 13, 2005, and it is pursuant to this directive from the Federal Communications Commission that Tennessee One Call files this Petition. A copy of the April 13, 2005, Federal Register containing the *Sixth Report and Order* is attached hereto as exhibit 1.
6. On October 20, 1993, the Tennessee Public Service Commission set forth the following factors and criteria to be used in the selection process for a qualified applicant for an application of an N11 number resource. Those criteria are as follows:
 - (a) Overall financial fitness, both historical and future;
 - (b) Overall ability (technical ability and otherwise) and willingness to provide service on a permanent and continuous basis;
 - (c) Ability and willingness to abide by Tennessee Regulatory Authority ("TRA") Rules and Policies;
 - (d) Rates, services, and collection practices to be utilized by Petitioner and the provision of N11 service;
 - (e) Extent and duration of the uses by the community of the proposed service to be offered by the Petitioner and the Petitioner's overall experience providing information to the community to be served; and,
 - (f) The type of information services to be provided by Petitioner through an abbreviated dialing code and its relative value to the public and local community.

REASONS SUPPORTING ALLOCATION OF N11 NUMBER

7. Tennessee One Call seeks to utilize the 811 abbreviated dialing code for providing advance notice of excavation activities to underground facility operators, pursuant to the mandates of the Federal Communications Commission, and orders of the Tennessee Regulatory Authority.
8. Tennessee One Call satisfies the criteria set forth by the Tennessee Regulatory Authority. The criteria for reviewing petitions for allocations of N11 numbers are met by the Petitioner as follows:

- (a) Overall financial fitness of the applicant, both historical and future. Since 1995, Tennessee One Call has operated a One Call Center pursuant to the provisions of the Underground Utilities Damage Prevention Act. In 1995, the budget for Tennessee One Call was \$1,171,000. During that year, Tennessee One Call received approximately 254,000 incoming calls, and processed approximately 1,237,000 outgoing calls. In 2004, the budget for Tennessee One Call was \$2,559,198, call volume in had increased to 452,683 calls, and call volume out had increased to 2,268,617 calls. Tennessee One Call is primarily funded by dues paid by its members, and the sole purpose of One Call is to provide a notification system to operators of underground utilities. It is not anticipated that the utilization of the 811 number will necessitate any capital expenses to the Petitioner, and it is reasonable to expect that funding for the operations of Tennessee One Call will exist now and in the future. Attached as exhibit 2 is a copy of the most recent annual audit of the Petitioner.
- (b) Overall ability (technical ability and otherwise) and willingness of the application to provide the service on a permanent and continuous basis. If allocated the 811 abbreviated dialing code, Tennessee One Call will continue to provide notification of excavation activities to underground facility operators. Tennessee One Call already has the technical ability to provide notification to operators of underground facilities, and Tennessee One Call can currently be contacted statewide by the toll-free number 1-800-351-1111. Tennessee One Call will work with the TRA and all phone companies to make the necessary arrangements to implement 811 dialing. It is the intention of Tennessee One Call to immediately implement the use of the 811 dialing code, subject to the ability of local phone service providers to route 811 calls to the Petitioner.
- (c) The ability and willingness to comply with any applicable authority rules and policies. The Petitioner will comply with all present and future rules promulgated by the FCC and the TRA, including those applicable to the abbreviated access dialing services
- (d) The rates, services and collection practice to be utilized by the service provider in providing N11 service. The purpose for the establishment of Tennessee One Call was to provide for notification to operators of underground facilities concerning excavation and demolition. Tennessee One Call currently provides that service throughout the State of Tennessee, and the

implementation of the 811 abbreviated dialing code is not anticipated to change the cost and billing structure for Tennessee One Call.

- (e) The extended duration of the applicant's service to the local community. Prior to 1995, Tennessee One Call contracted with a vendor for the purpose of providing the one call service. Starting in 1995, Tennessee One Call converted from a vendor-run system to a self-run system, and has operated in that manner since 1995. Throughout the existence of Tennessee One Call, its duties and mission have not changed. There already exists phone service to take calls in concerning proposed excavation and demolition, and to notify by calls out the facilities operators of the proposed demolition and excavation. Incoming calls are currently handled through a toll-free 10-digit number, 1-800-351-1111. Utilizing 811 as the number to reach Tennessee One Call will streamline and simplify the ability to contact Tennessee One Call. The task of Tennessee One Call in notifying facilities operators of proposed excavation and demolition will not change, nor will it be affected by the utilization of the 811 dialing code.
- (f) Anticipated future uses by the community of the proposed service and the Petitioner's overall experience in providing information to this community. The proposed 811 abbreviated dialing code is anticipated to be used by the same persons who currently use Tennessee One Call's toll-free number. Tennessee One Call anticipates that, after a period of appropriate education, the 811 abbreviated dialing code will become the preferred method for contacting Tennessee One Call. This is particularly true because of the FCC requirement that 811 be a national abbreviated dialing code for one call centers. Although there is no data upon which to make an accurate projection, the Petitioner would anticipate that the call volume into Tennessee One Call in the foreseeable future will not fall below the 452,683 calls received by Tennessee One Call in calendar year 2004, as the number of calls received each year has increased. Tennessee One Call does anticipate that a substantial number of these calls will be initiated by the use of the 811 abbreviated dialing number within a short period of time after its implementation.
- (g) The type of information services to be provided by the applicant over N11 and its relative value to the public and local community. The implementation of the 811 abbreviated dialing code will simplify the manner in which the Petitioner can be contacted for the purpose of providing advance notification of

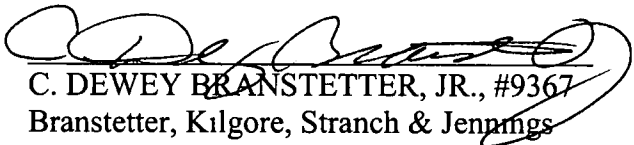
excavation and demolition activities. While the operations of Tennessee One Call will not be changed by the designation of 811 as an abbreviated dialing code for Tennessee One Call, the use of a three-digit dialing code will expedite and simplify the process by which Tennessee One Call can be contacted. Rather than having to remember a 10-digit, toll-free number, individuals contacting Tennessee One Call will only have to remember the 811 dialing code in order to access Tennessee One Call. In addition to providing a simplified means for accessing Tennessee One Call, the Pipeline Safety Act expressly mandates the use of a three-digit, toll-free number to access one call centers, and the allocation of 811 by the Federal Communications Commission as the national abbreviated dialing code to be used by state one call notification systems will not only serve the public interest, it will also meet the requirements of federal law.

CONCLUSION

9. Tennessee One Call System, Inc. respectfully requests that the Tennessee Regulatory Authority allocate the 811 abbreviated dialing code for three-digit, toll-free access, statewide, to Tennessee One Call.

WHEREFORE, based upon the foregoing, it is respectfully requested that the Tennessee Regulatory Authority grant the Petition of Tennessee One Call System, Inc.

Respectfully submitted,



C. DEWEY BRANSTETTER, JR., #9367
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227 Second Avenue North
Nashville, TN 37201-1631
Telephone: 615-254-8801
Facsimile: 615-255-5419

Attorney, Tennessee One Call System, Inc.

I, William B. Turner, the Executive Director of Tennessee One Call, state that I have read the contents of the foregoing Petition for the allocation of an N11 number, that the information contained within the Petition is true and correct, and that, if the Petition is granted, Tennessee One Call System will implement 811 as the abbreviated dialing code to be utilized to reach Tennessee One Call.

A handwritten signature in black ink, appearing to read "William B. Turner", is written over a horizontal line.

WILLIAM B. TURNER,
EXECUTIVE DIRECTOR

resolution bandwidth of one kilohertz or equivalent

* * * * *

[FR Doc. 05-7180 Filed 4-12-05, 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[CC Docket No. 92-105, FCC 05-59]

The Use of N11 Codes and Other Abbreviated Dialing Arrangements

AGENCY: Federal Communications Commission

ACTION: Final rule

SUMMARY: In this document, the Commission designates 811 as the national abbreviated dialing code to be used by state One Call notification systems for providing advanced notice of excavation activities to underground facility operators in compliance with the Pipeline Safety Improvement Act of 2002 (the Pipeline Safety Act). This Order implements the Pipeline Safety Act, which provides for the establishment of a nationwide toll-free abbreviated dialing arrangement to be used by state One Call notification systems.

DATES: Effective May 13, 2005

FOR FURTHER INFORMATION CONTACT:

Regina Brown, Attorney, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418-7400, TTY (202) 418-0484

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Sixth Report and Order*, in CC Docket No. 92-105, FCC 05-59, released March 14, 2005. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW, Washington, DC 20554.

I. Introduction

1 In this *Sixth Report and Order* (6th R&O), released on March 14, 2005, we designate 811 as the national abbreviated dialing code to be used by state One Call notification systems for providing advanced notice of excavation activities to underground facility operators in compliance with the Pipeline Safety Act. This Order implements the Pipeline Safety Act, which provides for the establishment of a nationwide toll-free abbreviated dialing arrangement to be used by state One Call notification systems. A One

Call notification system is a communication system established by operators of underground facilities and/or state governments in order to provide a means for excavators and the general public to notify facility operators in advance of their intent to engage in excavation activities. We also address various implementation issues in this Order. Specifically, we

- Require One Call Centers to notify carriers of the toll-free or local number the One Call Center uses in order to ensure that callers do not incur toll charges, as mandated by the statute;
- Allow carriers to use either the Numbering Plan Area (NPA)-NXX or the originating switch to determine the appropriate One Call Center to which a call should be routed;
- Require the use of 811 as the national abbreviated dialing code for providing advanced notice of excavation activities to underground facility operators within two years after publication of this Order in the **Federal Register**, and
- Delegate authority to the states, pursuant to section 251(e), to address the technical and operational issues associated with the implementation of the 811 code.

2 The 811 abbreviated dialing code shall be deployed ubiquitously by carriers throughout the United States for use by all telecommunications carriers, including wireline, wireless, and payphone service providers that provide access to state One Call Centers. This designation shall be effective May 13, 2005.

II. Discussion

A. Abbreviated Dialing Arrangements

1 Designation of 811 as a National Abbreviated Dialing Code

3 *Background.* In the *Notice of Proposed Rulemaking*, (NPRM), 69 FR 31930, June 8, 2004, we sought comment on whether to use an N11 code for access to One Call Centers. Specifically, we sought comment on the North American Numbering Council's (NANC) recommendation to assign 811 for this purpose. We also asked commenters to address whether we should incorporate the One Call access service into an existing N11 code, such as 311 or 511, to preserve the remaining unassigned N11 codes. The NANC expressed concern that shared use could cause caller confusion, misrouted calls, and deployment delay. We requested commenters that advocated shared use of an existing N11 code to propose solutions to mitigate the concerns expressed by the NANC.

4 *Discussion.* In this Order, we conclude that an N11 code is the best

solution, within the framework of the statute, for access to One Call Centers. Thus, consistent with the statutory mandate, we designate 811 as the national abbreviated dialing code to be used by state One Call notification systems for providing advanced notice of excavation activities to underground facility operators in compliance with the Pipeline Safety Improvement Act. In so doing, we reject the other options considered by the NANC and posed in the *NPRM*. We agree with commenters that other alternatives—codes using a leading star or number sign, e.g., *344 or #344 and an Easily Recognizable Code (ERC), such as 344—are impractical, costly to implement, and could delay the availability of a national One Call number for years. Moreover, dialing arrangements in the format of *XXX or #XXX, in as much as these codes include three digits following the leading star or number sign, do not comply with the statute's requirement to utilize a nationwide "three-digit number" to access One Call Centers. We believe that 811 will have less impact on customer dialing patterns and can be implemented without the substantial cost and delay of switch development required with the other proposed alternatives. We also agree with the U.S. Department of Transportation (DOT) that the special nature of an N11 code makes the 811 code amenable to a public education campaign linking it to One Call Centers. We reject APCC's request to exempt payphone service providers from this requirement. In contrast to the Act's clear mandate of a nationwide toll-free three-digit code for access to One Call Centers, APCC provides no credible argument for an exemption. The Act does not provide any exemptions from this requirement, and we decline to do so here.

5 Although we recognize that using 811 depletes the quantity of remaining N11 codes assignable for other purposes, using an N11 code to access One Call Centers will consume fewer numbering resources than certain other alternative abbreviated dialing arrangements. Additionally, the use of an N11 code to access One Call services follows the existing conventions for abbreviated dialing already familiar to customers. The N11 architecture is an established abbreviated dialing plan that is recognized by switch manufacturers and the public at large. Most significantly, using an N11 code such as 811 satisfies the legislative mandate for a three-digit nationwide number.

6 We share the concerns of commenters regarding the shared use of an existing N11 code, such as 511 (which is currently used for travel and

EXHIBIT

information services) or 311 (which is currently used for non-emergency police and other governmental services). In this instance, due to the volume of calls received by state One Call Centers, shared use of an existing N11 code could result in customer confusion and misrouting when dialing a shared N11 code. Thus, excavators could be deterred from using the notification system, thereby reducing the effectiveness of the One Call Centers. The Common Ground Alliance (CGA) estimates that the One Call Centers currently receive approximately 15 million calls annually. It also estimates that 40 percent of the incidents where underground facilities are damaged were caused by those who did not call before digging. CGA contends that the incoming call volume to One Call Centers over the next few years may well exceed 20 million calls. Thus, integration of state One Call Centers with existing N11 systems may also increase implementation costs while adding unnecessary complexity to the One Call notification program. Further, shared use of an existing N11 code for access to state One Call Centers could also delay deployment due to the need to reach agreement with the existing users of the N11 code to be integrated and national advertising efforts to educate users on the shared use of the N11 code. For these reasons, we reject the use of an existing N11 code as opposed to the approach adopted in this Order.

2 Other Abbreviated Dialing Arrangements Considered in the Notice

a Rejection of 344 as the Abbreviated Dialing Code for One Call Notification

7. Background In the NPRM, we sought comment on DOT's initial proposal to establish the digits "344" or any other mnemonic three-digit dialing arrangement for access to One Call Centers. We tentatively concluded that because 344 corresponds to an ERC, an abbreviated dialing code in the format of an Easily Recognizable Code (ERC) or other area code would be inconsistent with our numbering resource optimization policies by potentially rendering eight million North American Numbering Plan (NANP) telephone numbers unusable. We specifically sought comment on the technical and operational issues raised by the NANC and whether there are existing measures that can address these issues. We also sought comment as to the extent switch development or replacement may be needed and the impact this will have on nationwide implementation.

8. Discussion We conclude that an abbreviated dialing code in the format of an ERC or other area code would be inconsistent with our numbering resource optimization policies by rendering approximately eight million NANP telephone numbers unusable. We agree with commenters that the selection of an ERC for this purpose would not be in the public interest because it would accelerate NANP exhaust. Further, the establishment of 344 as an abbreviated dialing code may cause customer confusion and frustration for customers by misrouting callers to the One Call Center where 344 is a working NXX code. Additionally, from a technical perspective, some switches would require either replacement or development work that could delay the capability of using the 344 code as a three-digit number for a number of years. For example, Verizon comments that vendor development for the affected switches would require new technical specifications, code preparation, installation, testing, and release of generic software release prior to distribution. In light of these technical and practical challenges, we do not establish 344 as the One Call abbreviated dialing code.

b Rejection of Codes Using a Leading Star or Number Sign for One Call Notification

9. Background In the NPRM, we sought comment on whether a code with a leading star or number sign, in the format of either *XXX or #XXX, should be used to access One Call Centers. We sought comment on the extent to which using a code with a leading star or number sign will either promote or discourage exhaust of the NANP numbers. We asked parties to discuss any existing measures that can mitigate or alleviate the limitations with using a leading star or number sign. We also sought comment on whether calls from wireless customers to One Call Centers should continue to be permitted because of the effort that has gone into wireless implementation of #344 (#DIG).

10. Discussion We agree with commenters that the use of a code with a leading star or number sign, in the format of either *XXX or #XXX, for access to One Call Centers would be too difficult and costly to implement. Most significantly, as indicated above, such a dialing arrangement does not comply with the statute's requirement to utilize a nationwide "three-digit number" to access One Call Centers. Moreover, this abbreviated dialing arrangement would not achieve the uniformity mandated by the Pipeline Safety Act since all users would not be dialing the same sequence

if the code selected includes a star or number sign. A single nationwide abbreviated dialing code for access to One Call Centers will provide the certainty and reliability required for maximum usage and benefits of One Call services. Additionally, many telephone systems use the star and number signs for feature access. Thus, reprogramming these systems may not always be feasible and will involve considerable customer expense. Further, some switching systems may not be capable of processing access codes using a leading star or number sign in the dialing sequences, and the necessary switch development would delay the full implementation of the One Call functionality. Based on the record before us, we conclude that *XXX and #XXX are impractical for use as the national One Call access code and we will not assign a code using a leading star or number sign for access to One Call Centers.

11 Although we recognize the efforts undertaken in the implementation of #344 by some wireless carriers, we disagree with those commenters who advocate the continued and indefinite use of #344 for access to One Call Centers. We agree with DOT that a single nationwide abbreviated dialing code for access to One Call Centers will provide the certainty and reliability required for maximum usage and benefits of One Call services as intended by Congress. The #344 abbreviated dialing arrangement does not comply with the statute's requirement to utilize a nationwide "three-digit number" to access One Call Centers and the statutory mandate that dialing be uniform across the nation. The use of different abbreviated dialing codes for access to state One Call Centers, even if such codes are made available in addition to 811, likely will result in customer confusion as the public use both wireless and wireline telephones. Wireless carriers that currently use #344 shall transition to 811 pursuant to the implementation requirements.

B Implementation Issues

1 Integration of Existing One Call Center Numbers

12. Background The Pipeline Safety Act expressly mandates use of a three-digit toll-free number to access State One Call Centers. In the NPRM, we sought comment on methods to ensure that calls to One Call Centers are toll-free. We specifically sought comment on the NANC's recommendation that each One Call Center provide a toll-free number, which can be an 8YY number or any number that is not an IntraLATA

toll call from the area to be served, so that callers do not incur toll charges. We also sought comment on whether the dialing sequence should be the same for all providers or whether existing abbreviated dialing sequences should be allowed to continue.

13 Discussion To ensure that calls to One Call Centers are toll-free, we conclude that One Call Centers shall provide to carriers its toll-free number, which can be an 8YY number, or any number that is not an IntraLATA toll call, from the area to be served for use in implementing 811. Thus, when a caller dials 811, the carriers will translate 811 into the appropriate number to reach the One Call Center. This requirement will both simplify call routing and ensure that callers do not incur toll charges, as mandated by the statute. As discussed above, other existing abbreviated dialing sequences shall be discontinued, because the use of other existing abbreviated dialing sequences in addition to 811 does not comply with the statutory mandate that dialing be uniform across the nation.

2. Originating Switch Location

14 Background In establishing a framework for its evaluation of various abbreviated dialing arrangements to implement the Pipeline Safety Act, the NANC proposed that for wireline-originated calls, the originating NPA-NXX would determine the One Call Center to which the call is sent. For wireless-originated calls, the NANC proposed that the originating Mobile Switch Center would determine the One Call Center to which the call is sent. In the NPRM, we sought comment on these proposals.

15 Discussion We direct carriers to use either the NPA-NXX or the originating switch to determine the appropriate One Call Center to which a call should be routed. For wireline-originated calls, the originating switch location or the NPA-NXX will determine the One Call Center to which the call is sent. For wireless-originated calls, the originating Mobile Switch Center will determine the One Call Center to which the call is sent. This approach allows all carriers the flexibility to utilize the most efficient and cost-effective method for routing calls to appropriate state One Call Center and is competitively neutral.

3. Implementation Period

16 Background In the NPRM, we sought comment on several issues relating to how much time carriers should be given to implement a new national abbreviated dialing code. Specifically, we sought comment on

how long the implementation period for each proposed abbreviated dialing arrangement should be. We asked parties to comment on all of the steps that carriers must undertake to prepare the network for use of the three abbreviated dialing arrangements proposed in the NPRM to route properly such calls to the One Call Centers. We also sought comment on what time limit should be given to carriers to vacate any existing uses, if an unassigned N11 code, such as 811, were selected to access One Call Centers. Further, we specifically sought comment on the technical and operational issues that should be considered when determining the time period for implementation that would allow carriers to prepare for use of the proposed abbreviated dialing arrangement that was adopted. We also sought comment on the NANC's recommendation that we allow carriers one to two years to prepare the network to support One Call notification to existing One Call Centers. Additionally, we sought comment on whether the period for implementation should be uniform or variable and based on local conditions and whether, pursuant to section 251(e), we should delegate authority to the states to establish the timeframe for implementation and how best to engage states in the implementation process.

17 Discussion With regard to how much time carriers will need to implement 811, we find that, based on the record before us, two years from publication of this Order in the **Federal Register** is a reasonable time period for implementing 811. Most commenters generally agree that two years is a sufficient period for implementing an N11 code, specifically 811, for access to One Call Centers. Thus, we conclude that calls to One Call Centers using an abbreviated dialing code must use 811 as the national abbreviated dialing code for providing advanced notice of excavation activities to underground facility operators on or before two years from publication of this Order in the **Federal Register**. We defer to the expertise of the carriers, in cooperation with the individual states, to develop and determine the most appropriate technological means of implementing 811 access to One Call services, as dictated by their particular network architectures.

18 Although the Commission has allowed the local use of unassigned N11 codes, it has recognized that this use must be discontinued on short notice. The record indicates that the 811 code, while not formally allocated by a Commission order, is being used in several jurisdictions for other purposes.

For example, 811 is used in some areas to allow customers to make free repair calls and as a 911 test code. Specifically, in some of its states, SBC Communications (SBC) uses 811 as a test code for 911 prior to "turning up" new 911 trunk groups. SBC asserts therefore that designing a new code for testing will take some time because SBC must be able to test new 911 trunk groups to ensure they operate correctly. SBC also currently uses 811 in Connecticut for its business offices. Thus, in certain states, implementing the 811 solution will require time and effort.

19 American Public Communications Council (APCC) also notes that many independent payphone service providers currently use 811 to allow the general public to make free repair calls from payphones. APCC argues that it would be costly to implement 811 because it would require payphones to be reprogrammed and a change of signage informing payphone users of the new repair code. We agree with SBC that where 811 have been used by customers for other purposes, changing the use of that number will require more robust customer education. Additionally, changes to phone books, methods and procedures, and systems will require significantly more time where 811 was previously used for other purposes. For the foregoing reasons, we believe two years provides a reasonable transition period to clear the 811 abbreviated dialing code of any other existing uses, provide customer education, and ensure that there is no unreasonably abrupt disruption of the existing uses.

20 We recognize that states have unique knowledge that will assist in implementing the transition to the One Call Center access set forth in this Order. We therefore delegate authority to the state commissions, pursuant to section 251(e), to address the technical and operational issues associated with the implementation of 811. In delegating authority to the state commissions to address the technical and operational issues, state commissions should also consider whether a carrier may need additional time to implement 811 due to such technical and/or operational difficulties. We agree with Michigan Public Service Commission (MPSC) that state commissions are in the best position to address issues associated with implementing the abbreviated dialing arrangement because many of the One Call Centers were developed by, or under the auspices of, the state commissions. For example, Qwest suggests that states be involved in mediating issues associated with

customer contention in areas where multiple call centers request service in the same geographical area and be delegated authority to assess the qualifications of One Call Centers. We agree. We defer to the expertise of the states to address and resolve such issues. However, we decline to delegate authority to the state commissions, as suggested by California Public Utilities Commission and the People of the State of California (CPUC), to establish the implementation period. We agree with SBC that the statute calls for a nationwide solution and that allowing states to establish the implementation period would not meet this mandate. Therefore, as discussed above, we have established a two year period for implementing 811 as the national abbreviated dialing code for access to state One Call Centers.

III. Procedural Matters

A Regulatory Flexibility Analysis

21 As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the NPRM. The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. The Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) for this Order, set forth at Appendix B.

B Paperwork Reduction Act Analysis

22 This Order does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified "information collection burden for small businesses with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

C Further Information

23 Alternative formats (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 voice, (202) 418-7365 TTY, or bmillin@fcc.gov. This Order can also be downloaded in Microsoft Word and ASCII formats at <http://www.fcc.gov/ccb/universalservice/highcost>.

Final Regulatory Flexibility Analysis (Report and Order)

24 As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking

(NPRM). The Commission sought public comments on the proposals in the NPRM, including comment on the IRFA. The comments received are discussed below. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

D Need for, and Objectives of, the Proposed Rules

25 In this Order, we designate 811 as the national abbreviated dialing code to be used by state One Call notification systems for providing advanced notice of excavation activities to underground facility operators in compliance with the Pipeline Safety Improvement Act of 2002 (the "Pipeline Safety Act"). This Order implements the Pipeline Safety Act, which provides for the establishment of a nationwide toll-free abbreviated dialing arrangement to be used by state One Call notification systems.

26 A One Call notification system is a communication system established by operators of underground facilities and/or state governments in order to provide a means for excavators and the general public to notify facility operators in advance of their intent to engage in excavation activities. We also address various implementation issues. Specifically, we require One Call Centers to notify carriers of the toll-free or local number the One Call Center uses in order to ensure that callers do not incur toll charges, as mandated by the statute. We also allow carriers to use either the Numbering Plan Area (NPA) NXX or the originating switch to determine the appropriate One Call Center to which a call should be routed. Further, we require the use of 811 as the national abbreviated dialing code for providing advanced notice of excavation activities to underground facility operators within two years after publication of this Order in the **Federal Register**. We also delegate authority to the states, pursuant to section 251(e), to address the technical and operational issues associated with the implementation of the 811 code.

27 The 811 abbreviated dialing code shall be deployed ubiquitously by carriers throughout the United States for use by all telecommunications carriers, including wireline, wireless, and payphone service providers that provide access to state One Call Centers. The designation of 811 for access to state One Call Centers shall be effective thirty days after publication of this Order in the **Federal Register**.

E Summary of Significant Issues Raised by Public Comments in Response to the IRFA

28 In the IRFA, we indicated that we would consider any proposals made to minimize any significant economic impact on small entities. We received no comments directly in response to the IRFA. However, the National Telecommunications Cooperative Association (NTCA) and THG Consultants LLP (THG) filed general comments regarding the possible impact of the implementation of an N11 code on small business entities. Specifically, NTCA asserted that, although implementing 811 as the abbreviated dialing code for accessing the state One Call notification system will not cause its member companies any technical hardships, it will involve some costs and difficulties due to the need to modify switches. While NTCA did not provide detailed information on implementation costs, NTCA contended that the burdens associated with implementation of the 811 code would have a greater impact on smaller companies with limited staffing and a smaller subscriber base. THG argued that if an unassigned N11 code is selected to access One Call Centers, then existing commercial uses of this code should continue for commercial purposes until a qualified entity applies for develops the capability to put the code into use for One Call access. THG is concerned that, where an unassigned N11 code is selected for One Call access, small businesses engaged in commercial activities may be adversely affected and the public deprived of an existing service. The steps taken to minimize economic impact on small entities are discussed below.

F Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

29 The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the rules. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which (1) is independently owned and operated, (2) is not dominant in its field of operation, and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

a Telecommunications Service Entities
(i) Wireline Carriers and Service Providers

30 We have included small incumbent local exchange carriers in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not "national" in scope. We have therefore included small incumbent local exchange carriers in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

31 *Incumbent Local Exchange Carriers* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,337 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,337 carriers, an estimated 1,032 have 1,500 or fewer employees and 305 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our action.

32 *Competitive Local Exchange Carriers, Competitive Access Providers, "Shared-Tenant Service Providers," and "Other Local Service Providers"* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 609 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 609 carriers, an estimated 458 have 1,500 or fewer employees and 151 have more than 1,500 employees. In addition, 16 carriers have reported that they are

"Shared-Tenant Service Providers," and all 16 are estimated to have 1,500 or fewer employees. In addition, 35 carriers have reported that they are "Other Local Service Providers." Of the 35, an estimated 34 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, "Shared-Tenant Service Providers," and "Other Local Service Providers" are small entities that may be affected by our action.

33. *Local Resellers* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 133 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 127 have 1,500 or fewer employees and six have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by our action.

34. *Toll Resellers* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 625 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 590 have 1,500 or fewer employees and 35 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by our action.

35. *Payphone Service Providers* Neither the Commission nor the SBA has developed a small business size standard specifically for payphone services providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 761 carriers have reported that they are engaged in the provision of payphone services. Of these, an estimated 757 have 1,500 or fewer employees and four have more than 1,500 employees. Consequently, the Commission estimates that the majority of payphone service providers are small entities that may be affected by our action.

36. *Interexchange Carriers* Neither the Commission nor the SBA has

developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 261 carriers have reported that they are engaged in the provision of interexchange service. Of these, an estimated 223 have 1,500 or fewer employees and 38 have more than 1,500 employees. Consequently, the Commission estimates that the majority of IXCs are small entities that may be affected by our action.

37. *Operator Service Providers* Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 23 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 22 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by our action.

38. *Prepaid Calling Card Providers* Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 37 carriers have reported that they are engaged in the provision of prepaid calling cards. Of these, an estimated 36 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by our action.

(ii) Wireless Telecommunications Service Providers

39. *Wireless Service Providers* The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of "Paging" and "Cellular and Other Wireless Telecommunications." Under both SBA categories, a wireless business is small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 1997 show that there were 1,320 firms in this

category, total, that operated for the entire year. Of this total, 1,303 firms had employment of 999 or fewer employees, and an additional 17 firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category Cellular and Other Wireless Telecommunications, Census Bureau data for 1997 show that there were 977 firms in this category, total, that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more. Thus, under this second category and size standard, the majority of firms can, again, be considered small.

40 Cellular Licensees The SBA has developed a small business size standard for wireless firms within the broad economic census category "Cellular and Other Wireless Telecommunications." Under this SBA category, a wireless business is small if it has 1,500 or fewer employees. For the census category Cellular and Other Wireless Telecommunications firms, Census Bureau data for 1997 show that there were 977 firms in this category, total, that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more. Thus, under this category and size standard, the great majority of firms can be considered small. According to the most recent *Trends in Telephone Service* data, 719 carriers reported that they were engaged in the provision of cellular service, Personal Communications Service, or Specialized Mobile Radio Telephony services, which are placed together in the data. We have estimated that 294 of these are small, under the SBA small business size standard.

41 Common Carrier Paging The SBA has developed a small business size standard for wireless firms within the broad economic census categories of "Cellular and Other Wireless Telecommunications." Under this SBA category, a wireless business is small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 1997 show that there were 1,320 firms in this category, total, that operated for the entire year. Of this total, 1,303 firms had employment of 999 or fewer employees, and an additional 17 firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the great majority of firms can be considered

small. In the *Paging Third Report and Order and Fifth Notice of Proposed Rulemaking*, 62 FR 16004, April 3, 1997, we developed a small business size standard for "small businesses" and "very small businesses" for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A "small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. Additionally, a "very small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years. The SBA has approved these small business size standards. An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. According to the most recent *Trends in Telephone Service*, 433 carriers reported that they were engaged in the provision of paging and messaging services. Of those, we estimate that 423 are small, under the SBA approved small business size standard.

42 Wireless Communications Services This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission established small business size standards for the wireless communications services auction. A "small business" is an entity with average gross revenues of \$40 million for each of the three preceding years, and a "very small business" is an entity with average gross revenues of \$15 million for each of the three preceding years. The SBA has approved these small business size standards. The Commission auctioned geographic area licenses in the wireless communications services. In the auction, there were seven winning bidders that qualified as "very small business" entities, and one that qualified as a "small business" entity.

43 Wireless Telephony Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted earlier, the SBA has developed a small business size standard for "Cellular and Other Wireless Telecommunications" services. Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to the most recent *Trends in Telephone Service* data, 719 carriers reported that they were engaged in the provision of

wireless telephony. We have estimated that 294 of these are small under the SBA small business size standard.

44 Broadband Personal Communications Service The broadband Personal Communications Service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of \$40 million or less in the three previous calendar years. For Block F, an additional classification for "very small business" was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years. These standards defining "small entity" in the context of broadband PCS auctions have been approved by the SBA. No small businesses, within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses. There were 48 small business winning bidders. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as "small" or "very small" businesses. Subsequent events, concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant. In addition, we note that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

45 Narrowband Personal Communications Services To date, two auctions of narrowband PCS licenses have been conducted. For purposes of the two auctions that have already been held, "small businesses" were entities with average gross revenues for the prior three calendar years of \$40 million or less. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. To ensure

meaningful participation of small business entities in future auctions, the Commission has adopted a two-tiered small business size standard in the *Narrowband PCS Second Report and Order*, 65 FR 35875, June 6, 2000. A "small business" is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than \$40 million. A "very small business" is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than \$15 million. The SBA has approved these small business size standards. In the future, the Commission will auction 459 licenses to serve Metropolitan Trading Areas and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future auctions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined. The Commission assumes, for purposes of this analysis, that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

46 220 MHz Radio Service—Phase I Licensees The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a small business size standard for small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the small business size standard under the SBA rules applicable to "Cellular and Other Wireless Telecommunications" companies. This category provides that a small business is a wireless company employing no more than 1,500 persons. According to the Census Bureau data for 1997, only 12 wireless firms out of a total of 1,238 such firms that operated for the entire year, had 1,000 or more employees. If this general ratio continues in the context of Phase I 220 MHz licensees, the Commission

estimates that nearly all such licensees are small businesses under the SBA's small business size standard.

47 220 MHz Radio Service—Phase II Licensees The 220 MHz service has both Phase I and Phase II licenses. The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the *220 MHz Third Report and Order*, 62 FR 16004, April 3, 1997, we adopted a small business size standard for "small" and "very small" businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. This small business size standard indicates that a "small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. A "very small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed \$3 million for the preceding three years. The SBA has approved these small business size standards. Auctions of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. In the first auction, 908 licenses were auctioned in three different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group Licenses, and 875 Economic Area Licenses. Of the 908 licenses auctioned, 693 were sold. Thirty-nine small businesses won licenses in the first 220 MHz auction. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.

48 800 MHz and 900 MHz Specialized Mobile Radio Licensees The Commission awards "small entity" and "very small entity" bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz and 900 MHz bands to firms that had revenues of no more than \$15 million in each of the three previous calendar years, or that had revenues of no more than \$3 million in each of the previous calendar years, respectively. These bidding credits apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than \$15 million. One firm has over \$15 million in revenues. The Commission assumes, for purposes here,

that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA. The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz SMR bands. There were 60 winning bidders that qualified as small or very small entities in the 900 MHz SMR auctions. Of the 1,020 licenses won in the 900 MHz auction, bidders qualifying as small or very small entities won 263 licenses. In the 800 MHz auction, 38 of the 524 licenses won were won by small and very small entities. Consequently, the Commission estimates that there are 301 or fewer small entity SMR licensees in the 800 MHz and 900 MHz bands that may be affected by the rules and policies adopted herein.

49 700 MHz Guard Band Licensees In the *700 MHz Guard Band Order*, 65 FR 17594, April 4, 2000, we adopted a small business size standard for "small businesses" and "very small businesses" for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A "small business" as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. Additionally, a "very small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years. An auction of 52 Major Economic Area licenses commenced on September 6, 2000, and closed on September 21, 2000. Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001 and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.

50 Rural Radiotelephone Service The Commission has not adopted a size standard for small businesses specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio System. The Commission uses the SBA's small business size standard applicable to "Cellular and Other Wireless Telecommunications," i.e., an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees

in the Rural Radiotelephone Service that may be affected by the rules and policies adopted herein

51 *Air-Ground Radiotelephone Service* The Commission has not adopted a small business size standard specific to the Air-Ground Radiotelephone Service. We will use SBA's small business size standard applicable to "Cellular and Other Wireless Telecommunications," *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA small business size standard.

52 *Fixed Microwave Services* Fixed microwave services include common carrier, private operational-fixed, and broadcast auxiliary radio services. At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not created a size standard for a small business specifically with respect to fixed microwave services. For purposes of this analysis, the Commission uses the SBA small business size standard for the category "Cellular and Other Telecommunications," which is 1,500 or fewer employees. The Commission does not have data specifying the number of these licensees that have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of fixed microwave service licensees that would qualify as small business concerns under the SBA's small business size standard. Consequently, the Commission estimates that there are up to 22,015 common carrier fixed licensees and up to 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services that may be small and may be affected by the rules and policies adopted herein. We noted, however, that the common carrier microwave fixed licensee category includes some large entities.

53 *Offshore Radiotelephone Service* This service operates on several UHF television broadcast channels that are not used for television broadcasting in the coastal areas of states bordering the Gulf of Mexico. There are presently approximately 55 licensees in this service. We are unable to estimate at this time the number of licensees that would qualify as small under the SBA's small business size standard for "Cellular and Other Wireless Telecommunications" services. Under

that SBA small business size standard, a business is small if it has 1,500 or fewer employees.

54 *39 GHz Service* The Commission created a special small business size standard for 39 GHz licenses—an entity that has average gross revenues of \$40 million or less in the three previous calendar years. An additional size standard for "very small business" is an entity that, together with affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years. The SBA has approved these small business size standards. The auction of the 2,173 39 GHz licenses began on April 12, 2000 and closed on May 8, 2000. The 18 bidders who claimed small business status won 849 licenses. Consequently, the Commission estimates that 18 or fewer 39 GHz licensees are small entities that may be affected by the rules and policies adopted herein.

55 *Multipoint Distribution Service, Multichannel Multipoint Distribution Service, and ITFS* Multichannel Multipoint Distribution Service systems, often referred to as "wireless cable," transmit video programming to subscribers using the microwave frequencies of the Multipoint Distribution Service (MDS) and Instructional Television Fixed Service (ITFS). In connection with the 1996 MDS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of less than \$40 million in the previous three calendar years. The MDS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas. Of the 67 auction winners, 61 met the definition of a small business. MDS also includes licensees of stations authorized prior to the auction. In addition, the SBA has developed a small business size standard for Cable and Other Program Distribution, which includes all such companies generating \$12.5 million or less in annual receipts. According to Census Bureau data for 1997, there were a total of 1,311 firms in this category, total, that had operated for the entire year. Of this total, 1,180 firms had annual receipts of under \$10 million and an additional 52 firms had receipts of \$10 million or more but less than \$25 million. Consequently, we estimate that the majority of providers in this service category are small businesses that may be affected by the rules and policies adopted herein. This SBA small business size standard also appears applicable to ITFS. There are presently 2,032 ITFS licensees. All but 100 of these licenses are held by educational institutions. Educational

institutions are included in this analysis as small entities. Thus, we tentatively conclude that at least 1,932 licensees are small businesses.

56 *Local Multipoint Distribution Service* Local Multipoint Distribution Service (LMDS) is a fixed broadband point-to-multipoint microwave service that provides for two-way video telecommunications. The auction of the 1,030 LMDS licenses began on February 18, 1998 and closed on March 25, 1998. The Commission established a small business size standard for LMDS licensees as an entity that has average gross revenues of less than \$40 million in the three previous calendar years. An additional small business size standard for "very small business" was added as an entity that, together with its affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years. The SBA has approved these small business size standards in the context of LMDS auctions. There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. On March 27, 1999, the Commission re-auctioned 161 licenses, there were 40 winning bidders. Based on this information, we conclude that the number of small LMDS licenses consists of the 93 winning bidders in the first auction and the 40 winning bidders in the re-auction, for a total of 133 small entity LMDS providers.

57 *218–219 MHz Service* The first auction of 218–219 MHz spectrum resulted in 170 entities winning licenses for 594 Metropolitan Statistical Area licenses. Of the 594 licenses, 557 were won by entities qualifying as a small business. For that auction, the small business size standard was an entity that, together with its affiliates, has no more than a \$6 million net worth and, after federal income taxes (excluding any carry over losses), has no more than \$2 million in annual profits each year for the previous two years. In the *218–219 MHz Report and Order and Memorandum Opinion and Order*, 64 FR 59656, November 3, 1999, we established a small business size standard for a "small business" as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not to exceed \$15 million for the preceding three years. A "very small business" is defined as an entity that, together with its affiliates and persons or entities that holds interests in such an entity and its affiliates, has average annual gross revenues not to exceed \$3

million for the preceding three years. We cannot estimate, however, the number of licenses that will be won by entities qualifying as small or very small businesses under our rules in future auctions of 218–219 MHz spectrum.

58 24 GHz—Incumbent Licensees This analysis may affect incumbent licensees who were relocated to the 24 GHz band from the 18 GHz band, and applicants who wish to provide services in the 24 GHz band. The applicable SBA small business size standard is that of “Cellular and Other Wireless Telecommunications” companies. This category provides that such a company is small if it employs no more than 1,500 persons. According to Census Bureau data for 1997, there were 977 firms in this category, total, that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more. Thus, under this size standard, the great majority of firms can be considered small. These broader census data notwithstanding, we believe that there are only two licensees in the 24 GHz band that were relocated from the 18 GHz band, Teligent and TRW, Inc. It is our understanding that Teligent and its related companies have less than 1,500 employees, though this may change in the future. TRW is not a small entity. Thus, only one incumbent licensee in the 24 GHz band is a small business entity.

59 24 GHz—Future Licensees With respect to new applicants in the 24 GHz band, the small business size standard for “small business” is an entity that, together with controlling interests and affiliates, has average annual gross revenues for the three preceding years not in excess of \$15 million. “Very small business” in the 24 GHz band is an entity that, together with controlling interests and affiliates, has average gross revenues not exceeding \$3 million for the preceding three years. The SBA has approved these small business size standards. These size standards will apply to the future auction, if held.

G. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

60 In the IRFA, we invited comment on any possible costs associated with the abbreviated dialing arrangement ultimately chosen to comply with the Pipeline Safety Act. We received five general, non-IRFA comments in response to this issue. Commenters support the North American numbering Council’s (NANC) recommendation that the cost of implementing a One Call service should not be an unfunded

mandate. Qwest asserts that, although past N11 deployments have not typically involved federal cost recovery, state regulatory commissions are not uniform in the way in which they resolve cost recovery matters associated with N11 deployments. Specifically, the American Public Communications Council (APCC) contends that if payphone service providers are not excluded from the statutory mandate, then they should also be compensated for such calls.

61 While we recognize that there may be some costs associated with implementation of the 811 code, we have not specified parameters for cost recovery in this Order. The Pipeline Safety Act did not provide for federal financial support as part of the mandate for a nationwide abbreviated dialing arrangement for access to One Call Centers. Therefore, we find that the Congressional mandate and benefits of a national N11 code assignment, specifically 811, outweigh any concerns regarding cost recovery on the federal level. These issues are most appropriately addressed by the state and local governments. As indicated above, we believe that state commissions are in the best position to address issues associated with implementing 811 because many of the One Call Centers were developed by, or under the auspices of, the state commissions.

H. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

62 The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities, (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities, (3) the use of performance, rather than design, standards, and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

63 In adopting 811 as the national abbreviated dialing code for access to One Call Centers, we have taken steps to minimize the impact on small entities. The overall objective of this proceeding was to assess possible abbreviated dialing arrangements to use to access state One Call Centers as mandated by the Pipeline Safety Act, while at the same time, seeking to minimize any adverse impact on

numbering resources. We, therefore, sought comment on various abbreviated dialing arrangements, including those considered and recommended by the NANC, that could be used by state One Call notification systems in compliance with the Pipeline Safety Act while at the same time minimizing, to the extent possible, any adverse impact on numbering resources, including any impact on small entities.

64 After reviewing the comments and considering the possible abbreviated dialing arrangements that could be used by state One Call notification systems in compliance with the Pipeline Safety Act, we conclude that an N11 code is the best solution, within the framework of the statute, for access to One Call Centers. Thus, consistent with the statutory mandate, we designate 811 as the national abbreviated dialing code to be used by state One Call notification systems for providing advanced notice of excavation activities to underground facility operators in compliance with the Pipeline Safety Act. We agree with commenters that the other proposed alternatives—codes using a leading star or number sign, e.g., *344 or #344, and the establishment of an Easily Recognizable Code (ERC), such as 344, as an abbreviated dialing code are impractical, costly to implement, and could delay the availability of a national One Call number for years. Moreover, this abbreviated dialing arrangement would not achieve the uniformity mandated by the Pipeline Safety Act since all users would not be dialing the same sequence if the code selected includes a star or number sign. We believe that 811 will have less impact on customer dialing patterns and can be implemented without the substantial cost and delay of switch development required with other proposed alternatives.

65 Although we recognize that using 811 depletes the quantity of remaining N11 codes assignable for other purposes, using an N11 code to access One Call Centers will consume fewer numbering resources than certain other alternative abbreviated dialing arrangements. Additionally, the use of an N11 code to access One Call services follows the existing conventions for abbreviated dialing already familiar to customers. The N11 architecture is an established abbreviated dialing plan that is recognized by switch manufacturers and the public at large. Most significantly, using an N11 code such as 811 satisfies the legislative mandate for a three-digit nationwide number.

66 Further, although the Commission has allowed the local use of unassigned N11 codes, it has recognized that this

use must be discontinued on short notice. In order to minimize the impact of our action, including the impact on small business entities, we provide a two year period, from publication of this *Order* in the **Federal Register**, for implementing the 811 code. Based on the record before us, we believe two years from publication of this *Order* in the **Federal Register** is a reasonable time period for implementation of 811. The alternative of not providing for a transition period was considered but rejected because we believe a transition period is necessary to provide all telecommunications carriers, including wireline, wireless, and payphone service providers, sufficient time to make the necessary network modifications or upgrades, as well as integrate existing One Call notification systems, thus minimizing any adverse or unfair impact on smaller entities. In addition, this transition period will give carriers time to clear this number of any other existing uses, provide customer education, and ensure that there is no unreasonably abrupt disruption of the existing uses.

I. Publication of FRFA

67. The Commission will send a copy of the *Order*, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**.

IV. Ordering Clauses

68. Pursuant to the authority contained in sections 1, 4(i), 4(j), 201–205, 214, 254, and 403 of the Communications Act of 1934, as amended, this *Sixth Report and Order* is adopted.

69. Pursuant to section 251(e)(3) of the Communications Act of 1934, as amended, 47 U.S.C. 251(e)(3), 811 is assigned as the national abbreviated dialing code to be used exclusively for access to Once Call Centers, effective May 13, 2005.

70. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

71. The Commission will not send a copy of this *Order* pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because no rules were adopted or changed.

Federal Communications Commission
Marlene H. Dortch,
Secretary
 [FR Doc. 05–7179 Filed 4–12–05, 8:45 am]
BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 02–278, FCC 05–28]

Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991

AGENCY: Federal Communications Commission

ACTION: Final rule, petition for reconsideration, clarification

SUMMARY: This document addresses certain issues raised in petitions for reconsideration of regarding the national do-not-call registry and the Commission's other telemarketing rules implementing the Telephone Consumer Protection Act (TCPA).

DATES: Effective May 13, 2005

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554

FOR FURTHER INFORMATION CONTACT: Erica McMahon, Consumer & Governmental Affairs Bureau, (202) 418–2512

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Order on Reconsideration*, CG Docket No. 02–278, FCC 05–28, adopted February 10, 2005, and released February 18, 2005 (*Order*). The *Order* addresses issues arising from *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, (2003 TCPA Order), CG Docket No. 02–278, FCC 03–153, released July 3, 2003, published at 68 FR 44144, July 25, 2003. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, it does not contain new or modified “information collection burden for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4). Copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, Room CY–A257, 445 12th Street, SW, Washington, DC.

20054. The complete text of this decision may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554. Customers may contact BCPI, Inc. at its Web site <http://www.bcpweb.com> or call 1–800–378–3160. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). The *Order* can also be downloaded in Word and Portable Document Format (PDF) at <http://www.fcc.gov/cgb/policy>.

Synopsis

In the 2003 TCPA Order, the Commission adopted a national do-not-call registry, in conjunction with the FTC, to provide residential consumers with a one-step option to prohibit unwanted telephone solicitations. Telemarketers are prohibited from contacting those consumers that register their telephone numbers on the national list, unless the call falls within a recognized exemption. We explained that calls that do not fall within the definition of “telephone solicitation” as defined in section 227(a)(3) are not restricted by the national do-not-call list. These may include surveys, market research, political and religious speech calls. The national do-not-call rules also do not prohibit calls by or on behalf of tax-exempt nonprofit organizations, calls to persons with whom the seller or telemarketer has an established business relationship, calls to businesses, and calls to persons with whom the marketer has a “personal relationship.”

A number of petitioners raise questions related to the administration and operation of the national do-not-call registry. The DMA requests that the Commission review the national do-not-call registry set up by the FTC and reconsider our rules to impose more reasonable security procedures for the registry. In addition, the DMA asks the FCC to require the DNC list administrator to provide a mechanism by which callers can download the national list without wireless numbers. Several other petitioners request that the Commission reconsider the extent to which states may apply their do-not-call requirements to interstate telemarketers. We note that, since the close of the filing period for petitions for reconsideration, the Commission has received several petitions for declaratory ruling seeking preemption of state telemarketing laws. The

DANIEL J. CANTER, CPA INC.
FINANCIAL & TAX CONSULTANTS

INDEPENDENT AUDITORS' REPORT

To the Board of Trustees
Tennessee One-Call System, Inc. (a nonprofit organization)
Nashville, TN 37214

We have audited the accompanying statements of financial position of Tennessee One-Call System, Inc. (a nonprofit organization) as of December 31, 2004 and 2003, and the related statements of activities and cash flows for the years then ended. These financial statements are the responsibility of the Organization's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the aforementioned financial statements present fairly, in all material respects, the financial position of Tennessee One-Call System, Inc. (a nonprofit organization) as of December 31, 2004 and 2003, and the results of its operations, changes in its net assets and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

Respectfully submitted,



DANIEL J. CANTER, CPA INC.
Certified Public Accountants

February 16, 2005

Tennessee One-Call System, Inc.
(a nonprofit organization)
STATEMENTS OF FINANCIAL POSITION

ASSETS

	December 31,	
	2004	2003
CURRENT ASSETS		
Cash and cash equivalents	\$ 1,998,974	\$ 1,406,241
Accounts receivable--members (net of allowance)	651,705	1,155,201
Prepaid expenses	20,867	21,264
Inventories	26,036	19,591
TOTAL CURRENT ASSETS	2,697,582	2,602,297
EQUIPMENT		
Equipment	1,063,227	1,048,819
Furniture and fixtures	110,417	105,077
TOTAL EQUIPMENT	1,173,644	1,153,896
Less accumulated depreciation	826,691	716,071
NET EQUIPMENT	346,953	437,825
OTHER ASSETS		
Prepaid loan fees (net)		200
Deposits	3,050	3,050
Software development (net of amortization)	7,201	50,153
Investments -- other	24,642	22,153
Equity Security -- Progressive Partnering, Inc.	5,000	5,000
TOTAL OTHER ASSETS	39,893	80,556
TOTAL ASSETS	\$ 3,084,428	\$ 3,120,678

See accountants' report and notes to financial statements.

Tennessee One-Call System, Inc.
(a nonprofit organization)
STATEMENTS OF FINANCIAL POSITION

LIABILITIES AND NET ASSETS

	December 31,	
	2004	2003
CURRENT LIABILITIES		
Current portion of long-term debt	\$ -	\$ 75,600
Accrued payroll	19,865	63,199
Accrued payroll taxes and withholdings	119	359
Accounts payable -- trade	10,840	18,902
Accrued interest	-	452
Accrued vacation	38,335	31,282
Members' dues paid or billed in advance	2,509,587	2,394,217
TOTAL CURRENT LIABILITIES	2,578,746	2,584,011
LONG TERM DEBT		76,625
DEFERRED CREDITS		
Deferred compensation payable	24,642	22,153
TOTAL LIABILITIES	2,603,388	2,682,789
NET ASSETS-UNRESTRICTED	481,040	437,889
TOTAL LIABILITIES AND NET ASSETS	\$ 3,084,428	\$ 3,120,678

See accountants' report and notes to financial statements.

Tennessee One-Call System, Inc.
(a nonprofit organization)
STATEMENTS OF ACTIVITIES

UNRESTRICTED NET ASSETS	Year Ended December 31,	
	2004	2003
Revenues		
Membership dues	\$ 2,628,527	\$ 2,365,536
Promo item sales and other program income	51,599	60,264
Investment income	8,610	11,119
Progressive Partners fees	143,410	87,028
Pipeline program income	122,793	71,764
Net unrealized income on investments	2,411	4,990
TOTAL REVENUES	2,957,350	2,600,701
Expenses		
Promotional materials and expenses	107,651	111,209
Advertising-billboard and radio	22,774	29,119
Symposiums and committee expenses	18,225	36,228
Legal and professional fees	45,389	44,756
Bank fees	64	202
Communication costs	162,591	140,064
Computer costs	45,913	65,614
Progressive Partners costs	132,746	78,049
Pipeline program costs	113,082	64,629
Repairs and maintenance	20,887	12,659
Insurance	30,021	31,037
Cellular phones and pagers	9,112	10,336
Salaries, wages and benefits	1,515,594	1,419,945
Retirement benefits	115,756	100,850
Deferred compensation	2,489	5,056
Payroll taxes	128,694	111,024
Occupancy costs	140,113	129,945
Vehicle lease	32,326	29,238
Employee expenses and training	69,118	81,266
Meetings and exhibits	12,695	9,490
Dues and publications	11,534	10,515
Interest	6,213	10,583
Office expense	15,593	13,078
Depreciation and amortization	153,771	168,897
Net unrealized loss on investments	-	-
Provision for bad debts	1,848	4,517
TOTAL EXPENSES	2,914,199	2,718,306
INCREASE (DECREASE) IN UNRESTRICTED NET ASSETS	43,151	(117,605)
NET ASSETS—Beginning	437,889	555,494
NET ASSETS—Ending	\$ 481,040	\$ 437,889

See accountants' report and notes to financial statements.

Tennessee One-Call System, Inc.
(a nonprofit organization)
STATEMENTS OF CASH FLOWS

	Year Ended December 31,	
	2004	2003
CASH FLOWS--OPERATING ACTIVITIES		
Change in net assets	\$ 43,151	\$ (117,605)
Adjustments to reconcile change in net assets to net cash provided by operating activities:		
Provision for bad debts	1,848	4,517
Depreciation and amortization	153,771	168,897
Unrealized (gain) loss on investments	(2,411)	(4,990)
(Increase) decrease in:		
Accounts receivable--members	501,649	265,919
Inventories	(6,445)	11,795
Prepaid expenses	397	9,231
Increase (decrease) in:		
Accrued payroll	(43,334)	8,593
Accrued payroll taxes and withholdings	(240)	(782)
Accounts payable--trade	(8,062)	15
Accrued vacation	7,053	1,746
Accrued interest	(452)	(202)
Members' dues paid in advance	115,370	125,778
Deferred compensation payable	2,489	5,056
NET CASH PROVIDED (USED) BY OPERATIONS	764,784	477,968
CASH FLOWS--INVESTING ACTIVITIES		
Additions to equipment and furniture	(19,748)	(47,963)
Purchase of investment	(78)	(67)
Software costs capitalized	-	(12,453)
NET CASH (USED) BY INVESTING ACTIVITIES	(19,826)	(60,483)

See accountants' report and notes to financial statements.

Tennessee One-Call System, Inc.
(a nonprofit organization)
STATEMENTS OF CASH FLOWS (continued)

	Year Ended December 31,	
	2004	2003
CASH FLOWS FROM FINANCING ACTIVITIES		
Reduction of long-term debt	\$ (152,225)	\$ (72,940)
NET CASH PROVIDED (USED) BY FINANCING ACTIVITIES	(152,225)	(72,940)
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	592,733	344,545
CASH AND CASH EQUIVALENTS--BEGINNING OF YEAR	1,406,241	1,061,696
CASH AND CASH EQUIVALENTS--END OF YEAR	\$ 1,998,974	\$ 1,406,241

See accountants' report and notes to financial statements.

Tennessee One-Call System, Inc.
(a nonprofit organization)
NOTES TO FINANCIAL STATEMENTS

SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Accounting and Nature of Activities

The Organization maintains its accounting records on the accrual method of accounting. The primary function of the Organization is a central contact point for owners of underground utilities and excavators. The Organization acts as an information conduit, enabling its members to take appropriate action to protect their underground facilities from damage as well as to protect their customers from service interruption and promote a safer environment for excavators. The Organization is funded entirely through member fees.

Basis of Presentation

The Organization has adopted the Statement of Financial Accounting Standards (SFAS) No. 117, "Financial Statements of Not-for-Profit Organizations". Under SFAS No. 117, the Organization is required to report information regarding its financial position and activities according to three classes of net assets; unrestricted net assets, temporarily restricted net assets, and permanently restricted net assets. Tennessee One-Call System, Inc. does not have any restricted net assets.

Accounts Receivable--Members

The Organization maintains an allowance for uncollectible accounts in accordance with generally accepted accounting principles. The allowance is estimated from historical performance, analysis of individual member accounts, and the financial condition of its members. The allowance balance was \$2,150 and \$2,150, as of December 31, 2004 and 2003, respectively.

Tennessee One-Call System, Inc.
(a nonprofit organization)
NOTES TO FINANCIAL STATEMENTS

SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

Accounts Receivable--Members (continued)

The Organization generally bills prior to year end for member's dues for the next year.

Dues billed in advance are shown under current liabilities.

Inventories

Inventories are stated at cost on a first-in, first-out basis and consist principally of materials used in the promotion of the one-call system. These items are held for sale to members or are distributed free of charge as a public service.

Equipment and Depreciation

Equipment and software development costs are carried at cost. Depreciation is calculated on the straight-line method over the estimated useful life of the assets.

Renewals and replacements of a routine nature are expensed, while those which improve or extend the life of existing assets are capitalized. Adjustments of the assets and the related accumulated depreciation accounts are made for property retirements and disposals, with the resulting gain or loss included in revenue or expenses, respectively. Software is amortized over the estimated useful life from the effective date of implementation.

Depreciation and amortization

Depreciation of equipment, based on the estimated useful lives shown, follows:

Tennessee One-Call System, Inc.
(a nonprofit organization)
NOTES TO FINANCIAL STATEMENTS

SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

Depreciation and amortization (continued)

	Depreciation and Amortization Expense (Straight-Line Method)		
	Years ended December 31,		
	2004	2003	Estimated Useful Life
Equipment	\$ 99,712	\$ 114,553	5-7 years
Furniture and fixtures	10,907	11,288	7
Software amortization	42,952	42,952	5
	153,571	\$ 168,793	
Loan fee amortization	200	104	
Total	<u>\$ 153,771</u>	<u>\$ 168,897</u>	

Cash and Cash Equivalents

The Organization considers all short-term investments with an original maturity of three months or less to be cash equivalents. As part of the Organization's cash management program, the Organization invests in a Corporate money management fund. These securities are not backed by the U.S. Government

Concentrations of Credit Risk

The Organization extends unsecured credit to its members in the ordinary course of business. The members are located primarily in the State of Tennessee.

The Organization maintains its checking account in one commercial bank. Cash in this checking account at times exceeded \$100,000. The account is insured by the FDIC up to \$100,000. At December 31, 2004 and 2003, the balance in excess of the FDIC limit was \$ 1,624,199 and \$ 1,306,753, respectively.

Tennessee One-Call System, Inc.
(a nonprofit organization)
NOTES TO FINANCIAL STATEMENTS

SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

Equity Security

The equity security consists of a 25% interest of a non-publicly traded common stock. It is recorded at original cost. Fair market value is not available. Management believes the carrying value approximates fair market value.

Advertising Costs

The Organization incurs substantial costs to promote its services to the general public. The Organization's policy is to expense costs for advertising as incurred.

Financial Instruments

Unless otherwise indicated, the fair value of all reported assets and liabilities which represent financial instruments (none of which are held for trading purposes) approximate the carrying values of such amounts.

Reclassifications

Certain amounts have been reclassified in the 2003 statements to conform to the presentation in the 2004 statements.

Tennessee One-Call System, Inc.
(a nonprofit organization)
NOTES TO FINANCIAL STATEMENTS

UNREALIZED GAINS (LOSSES) ON INVESTMENTS

Investments costs and unrealized gains (losses) consist of :

BALANCES AT DECEMBER 31, 2004:			
	<u>Total</u>	<u>Market</u>	<u>Unrealized</u>
	<u>Cost</u>	<u>Value</u>	<u>Gain (Loss)</u>
SunTrust Securities, Inc. and Scudder Investments	\$ 24,968	\$ 24,642	\$ (326)

BALANCES AT DECEMBER 31, 2003:			
	<u>Total</u>	<u>Market</u>	<u>Unrealized</u>
	<u>Cost</u>	<u>Value</u>	<u>Gain (Loss)</u>
Total Investments	\$ 24,889	\$ 22,153	\$ (2,736)

Components of investment return:

Included in Investment Income:

Net unrealized gains (losses) on investments	\$ 2,411
Recognized gains and dividends	\$ 78
Net Investment Income	\$ 2,489

LEASES

The Organization is obligated under operating lease agreements for real property and vehicles. The real property lease has an effective date of December 15, 2000 and expires December 15, 2007, and requires the tenant be responsible for a proportionate share of operating, maintenance and tax costs. The vehicle leases have effective dates of March, 2004 and September, 2001, and expire March, 2008 through September, 2005, and require the lessee be responsible for insurance, taxes and fees. The following is a schedule of future minimum rental payments required under the operating leases that have an initial or remaining noncancelable lease term in excess of one year as of December 31, 2004:

Tennessee One-Call System, Inc
(a nonprofit organization)
NOTES TO FINANCIAL STATEMENTS

LEASES (continued)

Year ended <u>December 31,</u>	
2005	\$ 102,024
2006	97,116
2007	93,744
2008	<u>4,044</u>
Total minimum payments required	<u>\$ 296,928</u>

TAX STATUS

The Organization is incorporated under the Tennessee General Corporation Act as a corporation not for profit. Accordingly, the Organization is not subject to tax. The Organization is also exempt for federal income tax purposes under Internal Revenue Code Section 501(c)(4). The determination letter is dated December 19, 1984.

INVESTMENTS--OTHER

Other investments at December 31, 2004 and 2003, in the amounts of \$24,642 and \$22,153, respectively, represent the Organization's investment with SunTrust Securities and Scudder Investments to pay deferred compensation to employees. The investments are carried at market value and unrealized gains and losses, if any, are included in the change in net assets. Fair market value as of December 31, 2004 and 2003 was determined based on quoted market prices of securities.

Tennessee One-Call System, Inc.
(a nonprofit organization)
NOTES TO FINANCIAL STATEMENTS

LEASES (continued)

Year ended <u>December 31,</u>	
2005	\$ 102,024
2006	97,116
2007	93,744
2008	<u>4,044</u>
Total minimum payments required	<u>\$ 296,928</u>

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Tennessee One-Call System, Inc.
(a nonprofit organization)
NOTES TO FINANCIAL STATEMENTS

DEFERRED COMPENSATION

The Organization has deferred compensation plans for employees providing for payments upon retirement, death or disability for a period of years beginning upon termination of employment. The annual payment upon termination shall be determined and based on the amount of compensation deferred together with the income earned on any funds invested by the Organization for payment of such deferred compensation.

PROFIT SHARING PLAN

The Organization provides a noncontributory profit sharing plan covering all employees who have completed one year of service. The yearly contribution is at the discretion of the Board of Trustees but may not exceed fifteen percent (15%) of a participant's compensation. The Organization adopted the plan January, 1995. The Organization amended its profit-sharing plan to include a salary deferral 401(k) plan and allows employees to defer up to the maximum allowable amount under the Internal Revenue Code.

The Organization's contributions for the years ended December 31, 2004 and 2003 amounted to \$115,756 and \$100,850, respectively.

LONG-TERM DEBT

Long-term debt is as follows:

	December 31,	
	2004	2003
Note payable, Suntrust Bank, due November, 2005, Secured by equipment and fixtures, interest of 5.55% Fixed, due in monthly payments of \$6,977, Including interest	\$ -	\$ 152,225
Less current portion of long-term debt	-	75,600
Long-term portion	<u>\$ -</u>	<u>\$ 76,625</u>